



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
*Two Gateway Center*  
*Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR AN	)	<u>ORDER OF APPROVAL</u>
ORDER AUTHORIZING SOLAR ACCESS LLC.	)	
TO PROVIDE LOCAL EXCHANGE AND	)	
INTEREXCHANGE TELECOMMUNICATIONS	)	
SERVICES THROUGHOUT NEW JERSEY	)	DOCKET NO. TE00070437

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated July 26, 2000, Solar Access LLC. (Petitioner or Solar) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange and interexchange services throughout the State of New Jersey. Petitioner requested that Exhibit D of this petition be given confidential treatment. In addition, Solar submitted its responses to a Staff questionnaire with the petition, a motion for expedited treatment, dated December 29, 2000, and responses to Staff interrogatories by letter, dated February 28, 2001.

According to the petition, Solar was organized under the laws of the State of New Jersey on June 28, 2000. Petitioner's principal offices are located at 10009 East 14<sup>th</sup> Street, Brooklyn, New York 11230. Petition at 3.

Petitioner submitted copies of its Certificate of Formation and its New Jersey Certificate of Good Standing. Petition at 4, Exhibits A and B. According to the petition, Solar was formed to provide local exchange and interexchange services. Petition at 1. Petitioner advises that Solar is currently not providing service in any jurisdiction, is seeking authority only in New Jersey and has no pending civil, criminal or administrative actions against it. July 26, 2000 Questionnaire at 3.

Solar advised that it is planning to opt into an existing interconnection agreement and that it is currently in contact with Verizon New Jersey in this regard.

In its petition, Petitioner advised that it seeks authority to provide local exchange and interexchange telecommunications services to business customers throughout New Jersey. Petitioner advised that it plans to provide service to internet service providers, web hosting service providers and co-location service providers. Although Solar will initially provide resold services, it plans in the future to provide service through a combination of its own facilities and

the resale of the facilities of other certified carriers. Petition at 7; July 26, 2000 Questionnaire at 4.

Petitioner requested a waiver of N.J.S.A. 48:3-7.8, and N.J.A.C. 14.1-4.3, 14:1-5.15 and 14:10-1.16(b), which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested permission, in the interest of efficiency and to prevent undue burden, to maintain its books in accordance with Generally Accepted Accounting Principles (GAAP). Petition at 6. Petitioner also requests permission to keep all books, records, documents and other writings incident to the conduct of business of Petitioner in the State of New Jersey at Petitioner's corporate offices in Brooklyn, New York. Id. at 7. Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records. Ibid.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Ibid. Petitioner also asserted that approval of this Petition will provide New Jersey customers with efficiencies and cost savings. In addition, Petitioner stated that approval of its petition will enhance the telecommunications infrastructure in the State of New Jersey and will facilitate economic development. Id. at 8.

With regard to its technical and managerial qualifications, Solar stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Id. at 4. Petitioner submitted the professional biographies of its key personnel who, according to Solar, are well qualified to execute its business plans and have extensive technical and managerial experience in the telecommunications industry. Id. at 4; Exhibit C.

Petitioner has submitted the required pro forma income statements and balance sheets as evidence of sufficient financing.

The Division of the Ratepayer Advocate, by letter to the Board dated January 10, 2001, recommended approval of this petition.

## DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104 Stat. 56, codified in scattered sections of 47 U.S.C. § 151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services.  
[47 U.S.C. § 253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection

of services at competitive market-based prices.” N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Solar’s petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide approval of its tariff. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved. Regarding the Petitioner’s request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief, pursuant to N.J.A.C. 14:1-1.2(b)(1) and N.J.A.C. 14:1-5.15(a), from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner’s continuing responsibility to provide the Board with access to its books and records upon 48 hours notice, and in the manner requested, and to pay the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner’s request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

In addition, the Board HEREBY APPROVES Petitioner’s request that the Petitioner’s financial records in submitted in Exhibit D of the petition be afforded confidential treatment as requested by Petitioner.

DATED: 4/27/01

BOARD OF PUBLIC UTILITIES  
BY:

(signed)  
CAROL J. MURPHY  
ACTING PRESIDENT

(signed)  
FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)  
FRANCES L. SMITH  
SECRETARY